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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA  
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6 \* \* \*

6 CHARLES B. FRITSCHÉ,

7 Plaintiff,

8 v.

9 THE ATTORNEY GENERAL OF THE  
10 STATE OF NEVADA, *et al.*,

10 Defendants.

Case No. 3:24-cv-00499-MMD-CLB

ORDER

11  
12 Charles B. Fritsche, incarcerated at Lovelock Correctional Center in Nevada, filed  
13 a pro se petition for writ of habeas corpus challenging his convictions for sexual assault  
14 and lewdness. (ECF No. 1-1.) He appears to argue that he received ineffective assistance  
15 of counsel and that he is actually innocent. (*Id.*) He paid the filing fee, so his application  
16 to proceed *in forma pauperis* is denied as moot. (ECF Nos. 3, 4.) Because this petition  
17 appears to be a second or successive habeas petition,<sup>1</sup> Fritsche was required to obtain  
18 authorization from the Ninth Circuit Court of Appeals before he could proceed. See 28  
19 U.S.C. § 2244(b)(3); *McNabb v. Yates*, 576 F.3d 1028, 1029-1030 (9th Cir. 2009);  
20 *Henderson v. Lampert*, 396 F.3d 1049, 1053 (9th Cir. 2005). The Court gave Fritsche an  
21 opportunity to show cause and file such proof as he may have to demonstrate that the  
22 petition is not second and successive. (ECF No. 6.)

23 In response, Fritsche sent to the Court the notice that he received from the Ninth  
24

25 <sup>1</sup>Fritsche seeks to challenge his 2009 state-court judgment of conviction. (ECF No. 1-  
26 1 at 1.) He previously filed a federal habeas petition challenging this same judgment of  
27 conviction. See *Fritsche v. LeGrand*, No. 3:15-cv-00425-MMD-WGC, 2018 WL 5303322  
28 (D. Nev. Oct. 24, 2018). This Court denied the petition on its merits and denied a  
certificate of appealability. *Id.* The appellate court also denied a certificate of appealability,  
and the United States Supreme Court denied his petition for a writ of certiorari. (ECF Nos.  
40, 44.)

1 Circuit acknowledging receipt of his application to file a second or successive petition.  
2 (ECF No. 7.) He also stated that he has heard nothing further from the appeals court  
3 about his application. (*Id.* at 1.) But this Court takes judicial notice of the Ninth Circuit  
4 docket, which reflects that the Ninth Circuit denied his request for leave to file a second  
5 or successive petition. See *Fritsche v. Baker*, No. 20-70574, 2020 U.S. App. LEXIS 11431  
6 (9th Cir. Apr. 10, 2020).

7 It is therefore ordered that the Clerk of Court detach and file the Petition (ECF No.  
8 1-1).

9 It is further ordered that the Petition is dismissed with prejudice as second and  
10 successive.

11 It is further ordered that Fritsche's application to proceed *in forma pauperis* (ECF  
12 No. 3) is denied as moot.

13 It is further ordered that a certificate of appealability will not issue.

14 The Clerk is directed to enter judgment accordingly and close this case.

15 DATED THIS 5<sup>th</sup> Day of February 2025.



17 MIRANDA M. DU  
18 UNITED STATES DISTRICT JUDGE  
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